

1 KEVIN MAHONEY, Esq. (SBN: 235367)

2 kmahoney@mahoney-law.net

3 JENNIFER HAN (SBN: 281655)

4 jhan@mahoney-law.net

5 NICHOLAS POPER (SBN: 293900)

6 npoper@mahoney-law.net

7 **MAHONEY LAW GROUP, APC**

8 249 E. Ocean Boulevard, Suite 814

9 Long Beach, CA 90802

10 Phone No.: 562.590.5550

11 Fax No.: 562.590.8400

12 Attorneys for Plaintiff DANIEL BRANCH, as individual
13 and on behalf of all similarly situated employees

14
15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**
17

18 DANIEL BRANCH, as an individual and on
19 behalf of all similarly situated employees,

20 Plaintiff,

21 v.

22 PM REALTY GROUP, LP and DOES 1
23 through 10, inclusive

24 Defendants.

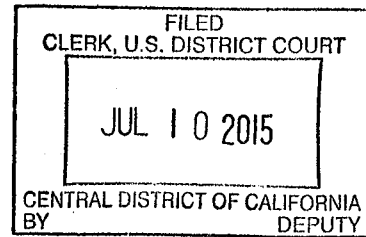
Case No.: 2:15-cv-3303

*Assigned to the Honorable Manuel
L. Real*

25 **STIPULATION AND**
26 **PROTECTIVE ORDER**

27 Complaint Filed: March 17, 2015

28 In order to facilitate the exchange of information and documents which may
29 be confidential, private, or otherwise subject to limitations on disclosure due to
30 federal or state laws, privacy rights, or otherwise, Plaintiff Daniel Branch



1 (“Plaintiff”) and Defendant PM Realty Group, LP (“Defendant”) (collectively, the
2 “Parties”) stipulate as follows:

3 **1. Purpose.** In addition to the above reasons, the Parties have agreed
4 that Defendant will provide contact information of putative class members to
5 Plaintiff, subject to the Court’s approval of the instant Protective Order, without
6 engaging the procedure described in *Belaire-West Landscape v. Superior Court*,
7 149 Cal. App. 4th 554 to notify putative class members because Plaintiff contends
8 there is insufficient time to complete the *Belaire* process prior to the motion for
9 class certification deadline and the instant Protective Order provides reasonable
10 limitations and privacy protections. *See Alvarez v. The Hyatt Regency Long*
11 *Beach*, 2010 WL 9505289 (C.D. Cal. 2010).

12 **2. Definitions.** The Parties stipulate to the following definitions:

13 a. “Proceeding” means the above-entitled proceeding, Case No.
14 2:15-cv-3303.

15 b. “Court” means the District Judge Manuel L. Real, or any other
16 judge to which this Proceeding may be assigned, including Magistrate
17 Judges and/or Court staff participating in such proceedings.

18 c. “Confidential Materials” means any Documents, Testimony or
19 Information as defined below designated as “Confidential” under the
20 provisions of this Stipulation and Protective Order.

21 d. “Attorneys’ Eyes Only Materials” means “Confidential
22 Materials” which constitutes, discloses, reveals, describes or discusses, in
23 whole or in part, highly sensitive information including information about
24 any Party’s net worth, and financial statements, budgets, and/or contact
25 information for putative class members which will be provided in lieu of a
26 *Belaire* Notice in order to expedite the preparation for class certification
27 proceeding for the reasons discussed above.

e. "Designating Party" means the Party that designates Materials as "Confidential" or "Attorneys' Eyes Only Information."

f. "Disclose," "Disclosed," or "Disclosure" means to reveal, divulge, give, or make available Materials, or any part thereof, or any information contained therein.

g. "Documents" is synonymous in meaning and scope with the definition of "documents" under Federal Rule of Civil Procedure 34(a).

h. "Information" means the content of Documents or Testimony.

i. "Testimony" means all depositions, declarations, or other testimony taken or used in this Proceeding.

3. No Waiver of Discovery Rights and Privileges. The entry of this Stipulation and Protective Order does not alter, waive, modify, or abridge any right, privilege, or protection otherwise available to any Party with respect to discovery, including any Party's right to assert the attorney-client privilege, the attorney work product doctrine, or other privileges, or any Party's right to contest any such assertion.

4. Designating Documents, Testimony, or Information as "Confidential" or "Attorneys' Eyes Only Material." Any Documents, Testimony, or Information to be designated as "Confidential" or "Attorneys Eyes' Only Materials" must be clearly so designated before the Document, Testimony, or Information is Disclosed or produced.

a. Documents. For Documents (apart from transcripts of depositions or other pretrial or trial proceedings), the Designating Party must affix the legend "Confidential" on each page of any Document containing such designated Confidential Material. The "Confidential" designation should not obscure or interfere with the legibility of the designated Information.

1 b. Testimony. For Testimony given in depositions the
2 Designating Party may either:

3 i. identify on the record, before the close of the deposition,
4 all "Confidential" Testimony, by specifying all portions of the
5 Testimony that qualify as "Confidential;" or

6 ii. designate specific portions of a witness' testimony as
7 "Confidential" while the witness is testifying about a particular
8 subject matter or topic where "Confidential" information is likely
9 to be disclosed; or

10 iii. designate the entirety of the Testimony at the deposition
11 as "Confidential" (before the deposition is concluded) with the
12 right to identify more specific portions of the Testimony as to
13 which protection is sought within 30 days following receipt of the
14 deposition transcript. In circumstances where portions of the
15 deposition Testimony are designated for protection, the transcript
16 pages containing "Confidential" Information may be separately
17 bound by the court reporter, who must affix to the top of each page
18 the legend "Confidential," as instructed by the Designating Party.

19 c. Information. For Information produced in some form other
20 than Documents, and for any other tangible items, including, without
21 limitation, compact discs or DVDs, the Designating Party must affix in a
22 prominent place on the exterior of the container or containers in which the
23 information or item is stored the legend "Confidential" or "Attorneys' Eyes
24 Only." If only portions of the Information or item warrant protection, the
25 Designating Party, to the extent practicable, must identify the
26 "Confidential" and "Attorneys' Eyes Only" portions.

27 ///

1 **5. Contact Information of Putative Class Members.** If any of the
 2 undersigned Parties, or other individual acting on their behalf, initiate contact with
 3 potential putative class members, each Party, or other individual acting on its
 4 behalf, will inform each contact potential putative class member that he or she has
 5 a right not to talk to counsel about this case and/or the claims asserted by Plaintiff
 6 Branch and that if he or she elects not to talk to counsel, counsel will then
 7 terminate the contact and not re-contact the individual.

8 **6. Inadvertent Production of Confidential or Attorneys' Eyes Only**
 9 **Materials.** The inadvertent production by any of the undersigned Parties or non-
 10 Parties to the Proceedings of any Confidential Material during discovery in this
 11 Proceeding without a "Confidential" or "Attorneys Eyes Only" designation, does
 12 not waive any claim that the item is "Confidential" or
 13 "Attorneys' Eyes Only."

14 a. Notice. If any Confidential Material or Attorneys' Eyes Only
 15 Materials is inadvertently produced without such designation, the Party that
 16 inadvertently produced the document must give written notice of the inadvertent
 17 production within 20 days of discovery of the inadvertent production, together
 18 with a further copy of the subject Document, Testimony, or Information
 19 designated as "Confidential" (the "Inadvertent Production Notice").

20 b. Receiving Party's Obligations. After receiving the Inadvertent
 21 Production Notice, the Party that received the inadvertently produced Document,
 22 Testimony, or Information must promptly destroy it and all copies thereof, or
 23 return it together with all copies of same to the producing Party's counsel at the
 24 producing Party's expense. Should the receiving Party choose to destroy the
 25 inadvertently produced Document, Testimony, or Information, the receiving Party
 26 must notify the producing Party in writing of such destruction within 10 days of
 27 receipt of written notice of the inadvertent production. If this provision conflicts

1 with any applicable law or rule regarding waiver of confidentiality through the
 2 inadvertent production of Documents, Testimony, or Information, such law will
 3 govern.

4 **7. Objecting to “Confidential” or “Attorneys’ Eyes Only”**
 5 **Designation.** A Party shall not be obligated to challenge the propriety of a
 6 confidentiality or attorneys’ eyes only designation at the time made, and a failure
 7 to do so shall not preclude a subsequent challenge thereto. All challenges to the
 8 propriety of a confidentiality or attorneys’ eyes designation only shall first be
 9 made in writing by letter or other document identifying the specific material
 10 challenged. Within fourteen (14) days of such a challenge, the Designating Party
 11 shall substantiate the basis for such designation in writing to the other Party, or
 12 forever waive the protections of this Order with respect to the challenged
 13 information. The Parties shall first attempt to resolve such challenges in good
 14 faith on an informal basis. If the dispute cannot be resolved, the Party seeking to
 15 maintain the designation may seek appropriate relief from the Court. If such relief
 16 is not sought within thirty (30) days after the letter substantiating the designations
 17 was sent to the Receiving Party, the Confidential or Attorneys’ Eyes Only
 18 Materials shall be re-designated in accordance with the challenging Party’s
 19 proposed designation as set forth in the letter referenced herein by the challenging
 20 Party. Any document designated “Confidential Materials” or “Attorneys’ Eyes
 21 Only Materials” shall enjoy the protection of such designation until the issue
 22 relating to the propriety of the designation has been resolved.

23 **8. Access to Confidential Materials.** Only the following persons may
 24 view Confidential Materials:

- 25 a. The Parties;
- 26 b. The Parties’ counsel, including their partners, associates,
 27 paralegals, assistants, staff, employees, contractors, and outside copying

1 services who are working on this Proceeding and to whom it is necessary
 2 that the Confidential Materials be Disclosed for purposes of this
 3 Proceeding;

4 c. Expert witnesses or consultants consulted by the Parties or
 5 their counsel in connection with the Proceeding;

6 d. any person who authored, received, saw, or otherwise
 7 previously knew the contents of the Confidential Material;

8 e. court reporters in this Proceeding (whether at depositions,
 9 hearings, or any other proceeding);

10 f. mediator or approved settlement officer; and

11 g. the Court.

12 **9. Access to Attorneys' Eyes Only Materials.** Only the following
 13 persons may view Attorneys' Eyes Only Materials:

14 a. The Parties' counsel, including their partners, associates,
 15 paralegals, assistants, staff, employees, contractors, and outside copying
 16 services who are working on this Proceeding;

17 b. Expert witnesses or consultants consulted by the Parties or
 18 their counsel in connection with the Proceeding;

19 c. court reporters in this Proceeding (whether at depositions,
 20 hearings, or any other proceeding);

21 d. mediator or approved settlement officer; and

22 e. the Court.

23 **10. Certification Required of Experts Before Viewing Confidential**
 24 **Materials.** Before Confidential Materials or Attorneys' Eyes Only Materials are
 25 disclosed to any expert witnesses or consultants, the disclosing Party's counsel
 26 must provide a copy of this Stipulation and Protective Order to such person,
 27 explain its terms to such person, and require them to sign the form attached as

1 Exhibit A.

2 **11. Use of Confidential Materials and Attorneys' Eyes Only**
3 **Materials.** Confidential Materials and Attorneys' Eyes Only Materials shall be
4 used by the persons receiving them only for the purposes of preparing for,
5 conducting, participating in the conduct of, and/or prosecuting and/or defending
6 the Proceeding, and not for any business or other purpose whatsoever.

7 **12. Relief from this Stipulation and Protective Order.** Any Party to
8 the Proceeding (or other person subject to the terms of this Stipulation and
9 Protective Order) may ask the Court, after appropriate notice to the other Parties
10 to the Proceeding, to modify or grant relief from, any provision of this Stipulation
11 and Protective Order.

12 **13. Third-Party Designation of Documents, Testimony, or**
13 **Information as "Confidential."** Any Documents, Testimony, or Information that
14 may be produced by a non-Party witness in discovery in the Proceeding pursuant
15 to subpoena or otherwise may be designated by such non-Party as "Confidential"
16 under the terms of this Stipulation and Protective Order. This designation will
17 have the same force and effect, and create the same duties and obligations, as if
18 made by one of the Parties. This designation will also function as a consent by the
19 producing Party to the authority of the Court in the Proceeding to resolve any
20 motion or other application made by any person or Party regarding the
21 designation.

22 **14. Subpoena of Confidential Materials or Attorneys' Eyes Only**
23 **Materials.** If any person subject to this Stipulation and Protective Order who has
24 custody of any Confidential Materials or Attorneys' Eyes Only Materials receives
25 a subpoena or other process from any government or other person or entity
26 demanding production of Confidential Materials Attorneys' Eyes Only Materials,
27 the recipient of the subpoena must promptly notify counsel for the Designating

1 Party by email, attaching a copy of the subpoena. Upon receiving this notice, the
2 Designating Party may, in its sole discretion and at its own cost, move to quash or
3 limit the subpoena, otherwise oppose production of the Confidential Materials or
4 Attorneys' Eyes Only Materials, and/or seek to obtain confidential treatment of
5 such Confidential Materials or Attorneys' Eyes Only Materials from the
6 subpoenaing person or entity to the fullest extent available under law. The
7 recipient of the subpoena may not produce any Confidential Materials or
8 Attorneys' Eyes Only Materials in response to the subpoena before the date
9 specified for production in the subpoena.

10 **15. Notice of Disclosure of Confidential Materials or Attorneys' Eyes**
11 **Only Materials.** If any non-Designating Party becomes aware that any person,
12 including the non-Designating Party, their employees, witnesses, consultants, or
13 vendors, has disclosed Confidential Materials other than in the manner authorized
14 by this Stipulation and Protective Order, the non-Designating Party must
15 immediately notify the Designating Party and cooperate to the fullest extent
16 possible in remedying such disclosure. The non-Designating Party providing
17 notice and/or remedying the disclosure of Confidential Materials will not preclude
18 the Designating Party from pursuing any remedies available under applicable law
19 or procedural rules, including the imposition of sanctions against the non-
20 Designating Party.

21 **16. Filing of Confidential Materials or Attorneys' Eyes Only**
22 **Materials.** The Parties agree to comply with the applicable rules of procedure
23 and/or judge's rules or standing order regarding the filing of Confidential
24 Materials. If no such rules exist or apply, the Parties agree to meet and confer
25 regarding the appropriate procedure for filing confidential materials before filing
26 such materials.

27 ///

1 **17. Use of Confidential Materials or Attorneys' Eyes Only Materials**
2 **at Trial.** The Parties agree to comply with the applicable rules of procedure
3 and/or judge's rules or standing order regarding the use of Confidential Materials
4 at trial. If no such rules exist or apply, the Parties agree to meet and confer
5 regarding the appropriate procedure for using Confidential Materials at trial before
6 using such materials at trial.

7 **18. Stipulation and Protective Order Remain Binding after**
8 **Proceeding Ends.** This Stipulation and Protective Order will continue to be
9 binding after the conclusion of this Proceeding and all subsequent proceedings
10 arising from this Proceeding, except that a Party may seek the written permission
11 of the Designating Party or may move the Court for relief from the provisions of
12 this Stipulation and Protective Order. If permitted by applicable law, the Court
13 will retain jurisdiction to enforce, modify, or reconsider this Stipulation and
14 Protective Order, even after the Proceeding ends.

15 **19. Destruction or Return of Confidential Materials and Attorneys'**
16 **Eyes Only Materials after Proceeding Ends.** Upon written request made within
17 30 days after this Proceeding ends, the Parties will have 30 days to either (a)
18 promptly return to counsel for each Designating Party all Confidential Materials
19 and Attorneys' Eyes Only Materials and all copies thereof (except that counsel for
20 each Party may maintain in its files, in continuing compliance with the terms of
21 this Stipulation and Protective Order, all work product, and one copy of each
22 pleading filed with the Court and one copy of each deposition together with the
23 exhibits marked at the deposition), (b) agree with counsel for the Designating
24 Party upon appropriate methods and certification of destruction or other
25 disposition of such Confidential Materials and Attorneys' Eyes Only Materials, or
26 (c) as to any Documents, Testimony or other Information not addressed by parts
27 (a) and (b) of this paragraph, file a motion seeking a Court order regarding proper

1 preservation of such Materials. If permitted by law, the Court will retain
2 jurisdiction to review and rule upon the motion referred to in part (c) of this
3 paragraph.

4 **20. Confidential Materials Produced Before Filing of this Stipulation**
5 **and Protective Order.** Defendant's counsel will promptly file this Stipulation
6 and Protective Order once it is signed by all Parties. However, the Parties agree to
7 be bound by the terms of this Stipulation and Protective Order with regard to any
8 Confidential Materials produced before such filing.

9 **21. Agreement to Be Bound Pending Court Approval of this**
10 **Stipulation and Protective Order.** The Parties and all signatories to the
11 Certification attached as Exhibit A agree to be bound by this Stipulation and
12 Protective Order pending its approval and entry by the Court. If the Court
13 modifies this Stipulation and Protective Order, or if the Court enters a different
14 protective order, the Parties agree to be bound by this Stipulation and Protective
15 Order until either event occurs.

16 **22. Entire Agreement.** This Stipulation and Protective Order represents
17 the entire agreement between the Parties with respect to the designation, handling,
18 and use of Confidential Materials.

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

1 **23. Counterparts.** This Stipulation and Protective Order may be
2 executed in counterparts.

3
4 Respectfully submitted,

5
6 Dated: July 8, 2015

MAHONEY LAW GROUP, APC

7
8 By: /s/ Nicholas D. Poper

Kevin Mahoney

Jennifer Han

Nicholas D. Poper

9 Attorneys for Plaintiff DANIEL BRANCH
10 as individual and on behalf of all similarly
11 situated employees.
12

13
14 Dated: July 8, 2015

LITTLER MENDELSON P.C.

15 By: /s/ Keith A. Jacoby

Keith A. Jacoby

Elizabeth C. Nguyen

Haven L. Claytor

16 Attorneys for Defendant PM Realty Group, LP
17
18

19 **ATTESTATION OF FILING**

20 I, Nicholas Poper, the CM/ECF User submitting this electronic filing, hereby
21 attest that, pursuant to Local Rule 5-4.3.4 a 2 (i), all other signatories listed, and on
22 whose behalf the filing is submitted, concur in the filing's content and have
23 authorized this electronic filing.
24

25 /s/ Nicholas Poper

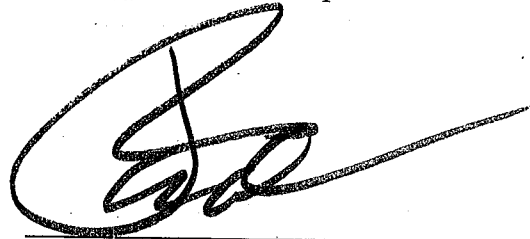
26 Nicholas Poper
27

PROPOSED ORDER

Good cause appearing therefore, the Court approves this Stipulation and Protective Order.

IT IS SO ORDERED.

Dated: 7/10/15



Honorable Manuel L. Real

EXHIBIT A

CERTIFICATION RE CONFIDENTIAL MATERIALS

I certify and understand that:

1. I have received and reviewed a copy of the Stipulation and Protective Order entered in this Proceeding. I agree to be bound by its terms.

2. I understand and agree that any Confidential Materials or Attorneys' Eyes Only Materials provided to me in this Proceeding are subject to the terms and conditions of the Stipulation and Protective Order.

3. I agree not to disclose any Confidential Materials or Attorneys' Eyes Only Materials provided to me in this Proceeding to any person or entity unless I am expressly authorized to do so under the terms and conditions of the Stipulation and Protective Order, and only in the manner provided by the Stipulation and Protective Order.

4. I understand and agree that Confidential Materials or Attorneys' Eyes Only Materials may only be used for the purposes of this Proceeding and not for any other purpose.

5. I understand and agree that throughout my participating in this Proceeding that I must store Confidential Materials or Attorneys' Eyes Only Materials in a secure manner. I further understand and agree that when my participation in this Proceeding ends, I must return all Confidential Materials or Attorneys' Eyes Only Materials to counsel who provided me with such Confidential Materials or Attorneys' Eyes Only Materials or confirm in writing that I have destroyed all Confidential Materials and or Attorneys' Eyes Only Materials that I received.

///

///

///

1 I declare under penalty of perjury, under the laws of the State of California,
2 that the foregoing is true and correct. Executed this _____ day of _____,
3 20__, at _____.

4 DATED: _____ BY: _____

5 _____
6 Signature

7 _____
8 Title and Company Name
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27